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Entered: June 21, 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

RICHARD KROCZEK

Junior Party

(Applications 09/509,283, 09/823,307, and 09/972,524),

**FAXED**

**JUN 21 2005**

v.

TAKUYA TAMATANI and KATSUNARI TEZUKA

Senior Party

(Applications 09/383,551, 09/561,308, and 10/301,056).

**PAT. & T.M. OFFICE  
BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Patent Interference No. 105,168

**JUDGMENT - Bd.R. 127(b)**

Before, SCHAFER, TORCZON, and NAGUMO, Administrative Patent Judges.<sup>1</sup>

SCHAFER, Administrative Patent Judge.

Tamatani has filed a paper abandoning the contest as to the subject matter of Count 2. Paper 141. Kroczek has filed a paper abandoning the contest as to the subject matter of Count 3. Paper 143. The abandonment of the contest is construed to be a request for entry of an adverse judgment. 37 CFR § 41.127(b)(4). Accordingly, it is

<sup>1</sup> As part of Board efforts under the Government Paperwork Elimination Act, signatures on papers originating from the Board are being phased out in favor of a completely electronic record. Consequently, subsequent papers in this case originating at the Board will not have signatures. The signature requirements for the parties have not changed. See, e.g., 37 C.F.R. § 10.18.

**ORDERED** that judgment on priority as to the subject matter of Count 2 (Paper 140, pp.1-2) is awarded against the senior party, TAKUYA TAMATANI and KATSUNARI TEZUKA;

**FURTHER ORDERED** that senior party, TAKUYA TAMATANI and KATSUNARI TEZUKA is not entitled to a patent containing Claims 70-79 of Application 10/301,056 and Claims 55-72 and 90-99 of Application 09/383,551 (all corresponding to Count 2);

**FURTHER ORDERED** that judgment on priority as to the subject matter of Count 3 (Paper 140, pp.2-3) is awarded against the junior party, RICHARD KROCZEK;

**FURTHER ORDERED** that junior party, RICHARD KROCZEK, is not entitled to a patent containing Claims 97, 98 and 150-153 of Applications 09/509,283 (all corresponding to Count 3);

**FURTHER ORDERED** that a copy of this judgment be made of record in the files of Applications 09/509,283; 09/823,307; 09/972,524; 09/383,551; 09/561,308, and 10/301,056;

**FURTHER ORDERED** that if there is any settlement agreement, attention is directed to 35 U.S.C. § 135(c) and 37 CFR § 41.205.

cc (FAX):

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## INTERFERENCE DIGEST

Interference No. 105,168

Paper No. 21

Name: Richard KroczeK

Serial No.: 09/823,307

Patent No.

Title: Methods of modulating T lymphocyte costimulation

Filed: 04/02/01

Interference with Tamatani et al.

### DECISION ON MOTIONS

Administrative Patent Judge, \_\_\_\_\_ Dated, \_\_\_\_\_

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### FINAL DECISION

Board of Patent Appeals and Interferences, Favorable Dated, 6/21/05

Court, \_\_\_\_\_ Dated, \_\_\_\_\_

### REMARKS

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This should be placed in each application or patent involved in interference in addition to the interference letters.



## UNITED STATES PATENT AND TRADEMARK OFFICE

DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BOARD OF PATENT APPEALS AND INTERFERENCES  
BOX INTERFERENCE, WASHINGTON, D.C. 20231

Filed by: Judge Mark Nagumo  
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Applicant: KROCZEK  
Application No.: 09/823,307  
Filed: 04/02/01  
For: Methods of modulating T lymphocyte  
costimulation  
Accorded benefit: PCT/DE98/02896, filed 09/23/98;  
DE 19821060.4, filed 05/11/98

The above-identified application or patent has been forwarded to the Board of Patent Appeals and Interferences because it is adjudged to interfere with another application or patent. An interference has been declared. The interference is designated as No. 105,168.

Notice is hereby given the parties of the requirement of the law for filing in the Patent and Trademark Office a copy of any agreement "in connection with or in contemplation of the termination of the interference." 35 U.S.C. § 135(c).

  
MARK NAGUMO  
Administrative Patent Judge